

Title	Family Law: Child Custody and Visitation Orders (revise forms FL-311 and FL-341; approve forms FL-341C, FL-341D, FL-341E, FL-341F and FL-355)
Summary	This proposal consists of attachments to current custody and visitation forms (1) to allow litigants to set out a parenting schedule for holidays and (2) for judicial officers to specify the scope of joint legal custody, incorporate common provisions regarding physical custody, and make orders in cases involving substance abuse and domestic violence. It also includes a standard stipulation form for parents to incorporate an agreement drafted by themselves or family court services.
Source	Family and Juvenile Law Advisory Committee
Staff	Bonnie Hough, 415-865-7668
Discussion	<p>These forms are designed to incorporate common issues in custody and visitation orders, to help provide more standard forms for litigants to use, to allow more specificity in agreements and orders, and to allow better enforcement of these orders.</p> <p>Current form FL-311 <i>Child Custody and Visitation Application Attachment</i>, sets out the basic requests for custody and visitation orders, and current form FL-341, <i>Child Custody and Visitation Order Attachment</i>, sets out the custody and visitation orders approved by the court. These forms cover basic issues regarding determination of custody, visitation, and transportation arrangements. However, they do not address matters such as holidays, summer vacation and similar issues that are also of concern to parents. These forms would be amended to address a variety of issues based on a statewide review of custody agreements.</p> <ul style="list-style-type: none"> • FL-341C, <i>Children's Holiday Schedule Attachment</i>, would allow parents to set out a holiday and vacation schedule. • FL-341D, <i>Additional Provisions – Physical Custody Attachment</i> would allow parents to obtain orders on common issues such as safety, child care, and phone contact. • FL-341E, <i>Joint Legal Custody Attachment</i>, would allow the court to specify the circumstances under which the consent of both parents is required to be obtained in order for them to exercise legal control of the child and the consequences of the failure to obtain mutual consent as required by Family Code

section 3083.

- FL-341F, *Custody and Visitation– Special Issue Attachment* would provide additional protective orders for children in cases involving domestic violence or substance abuse.
- FL-355, *Stipulation and Order for Custody and/or Visitation of Children*, would provide a simple mechanism by which parents may present any agreements they reach regarding custody or visitation to the court for the judge’s signature.

The proposed forms are attached at pages 3–12.

Attachments

PETITIONER: _____ RESPONDENT: _____	CASE NUMBER: _____
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CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT

1. ☐ **CHILD CUSTODY AND VISITATION** ☐ **To be ordered now and effective until the hearing.**

a. ☐ **Custody**

I request custody orders as follows:

Child's name Birth date Custody to (name)

b. ☐ **Visitation**

I request that (name): _____ have the following visitation rights:

(1) ☐ No visitation

(2) ☐ The following specific visitation schedule:

(i) ☐ **WEEKENDS** that weekend begins ☐ Friday ☐ Saturday
 (Name): _____ will have the children with him/her from:

☐ First weekend of the month (specify day(s) and time): _____ from _____ at _____ ☐ a.m. ☐ p.m.
 to _____ at _____ ☐ a.m. ☐ p.m.

☐ Second weekend of the month (specify day(s) and time): _____ from _____ at _____ ☐ a.m. ☐ p.m.
 to _____ at _____ ☐ a.m. ☐ p.m.

☐ Third weekend of the month (specify day(s) and time): _____ from _____ at _____ ☐ a.m. ☐ p.m.
 to _____ at _____ ☐ a.m. ☐ p.m.

☐ Fourth weekend of the month (specify day(s) and time): _____ from _____ at _____ ☐ a.m. ☐ p.m.
 to _____ at _____ ☐ a.m. ☐ p.m.

☐ Fifth weekend of the month, if any (specify day(s) and time): _____ from _____ at _____ ☐ a.m. ☐ p.m.
 to _____ at _____ ☐ a.m. ☐ p.m.

(ii) ☐ **ALTERNATE WEEKENDS** (specify starting date): _____

(Name): _____ will have the children with him/her from (specify day(s) and time):

from _____ at _____ ☐ a.m. ☐ p.m. to _____ at _____
☐ a.m. ☐ p.m.

(iii) ☐ **MID-WEEK**

(Name): _____ will have the children with him/her on (specify day(s) and time):

from _____ at _____ ☐ a.m. ☐ p.m. to _____ at _____
☐ a.m. ☐ p.m.

(iv) ☐ **OTHER** (specify days and time as well as any additional restrictions): ☐ See Attachment 1.b.(2)(iv)

(3) ☐ **SUPERVISED VISITATION** ☐ until the hearing ☐ after the hearing

I request that (name): _____ have supervised visitation with the minor children according to the schedule marked above and that the visits be supervised by (name): _____, who is a

☐ professional ☐ non-professional supervisor. The supervisor's phone number is (specify):

I request that the costs for supervision be paid as follows: Mother: _____ %, Father: _____ %

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CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT

(4) ☐ **TRANSPORTATION FOR VISITATION AND PLACE OF EXCHANGE**

- (i) ☐ Transportation to the visits will be provided by *(name)*:
- (ii) ☐ Transportation from the visits will be provided by *(name)*:
- (iii) ☐ The exchange of the children will occur at *(specify address)*:
- (iv) ☐ Other *(specify)*:

(5) ☐ **THE MINOR CHILD OR CHILDREN OF THE PARTIES MUST NOT BE REMOVED BY *(name)*:**

- (i) ☐ from the State of California.
- (ii) ☐ from the following counties *(specify)*:
- (iii) ☐ other *(specify)*:

(6) ☐ **CHILD ABDUCTION PREVENTION ORDERS** (attach form FL-312)

(7) ☐ **CHILDREN'S HOLIDAY SCHEDULE** (attach form FL-341(c))

(8) ☐ **ADDITIONAL CUSTODY PROVISIONS** (attach form FL-341(d))

(9) ☐ **JOINT LEGAL CUSTODY PROVISIONS** (attach form FL-341(e))

(10) ☐ **SPECIAL PROVISIONS TO PROTECT CHILDREN** (attach form FL-341(f))

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CUSTODY AND VISITATION — SPECIAL ISSUES ATTACHMENT

☐ to Petition or Application☐ to Findings and Order After Hearing or Judgment1. ☐ PARENTING CLASS

☐ Mother ☐ Father must enroll in and successfully complete a parenting class and provide verification of completion of the program to the ☐ other parent ☐ court. The course must specifically focus on ☐ co-parenting issues. A list of courses may be obtained from Family Court Services.

☐ High conflict ☐ Other (*specify*):

2. ☐ BATTERER'S TREATMENT

☐ Mother ☐ Father must enroll in and successfully complete a batterer's treatment program of at least 52 weeks duration and provide verification of completion of the program to the ☐ other parent ☐ court. The parent must enroll in the program by:

3. ☐ ANGER MANAGEMENT

☐ Mother ☐ Father must enroll in and successfully complete an anger management class and provide verification of completion of the class to the ☐ other parent ☐ court by:

4. ☐ COUNSELING FOR PARENTS

☐ Mother ☐ Father must participate in individual counseling with a licensed mental health practitioner or agency for a minimum of _____ months or until released by the counselor.

5. ☐ COUNSELING FOR CHILDREN

The children must participate in counseling with a licensed mental health practitioner or agency for a minimum of _____ months or until released by the counselor. The parents must cooperate and participate in the children's therapy at the discretion of the therapist.

6. ☐ RANDOM DRUG TESTING

☐ Mother ☐ Father must submit to ☐ weekly ☐ bi-weekly ☐ monthly monitored random drug testing for the standard panel of drugs, including marijuana. Appropriate releases must be signed and the results sent to the other parent and his or her attorney and to family court services. The cost will be paid by:

7. ☐ DRUG TESTING UPON REQUEST

If either parent believes that the other parent may be using illegal drugs, that parent may request that the other parent be drug-tested. The parent who has received the request must have a drug test at an agency previously agreed to by the parents. The parent who is being tested must make arrangements and sign all necessary forms so that the results of the testing may be sent to ☐ both parents, ☐ attorneys ☐ Family Court Services. The requesting parent shall be responsible for payment of fees if the test is negative. The testing parent shall be responsible for payment of fees if the test is positive.

8. ☐ DRUG/ALCOHOL ASSESSMENT:

☐ Mother ☐ Father must obtain a drug/alcohol assessment, which must include input from the other parent, and follow the recommendations of the assessor.

The cost will be paid by:

Possible resources include:

9. ☐ AA/NA MEETINGS:

☐ Mother ☐ Father must attend _____ AA/NA meetings per week, obtain a sponsor, and obtain written proof of attendance.

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JOINT LEGAL CUSTODY ATTACHMENT

☐ to Petition or Application☐ to Findings and Order After Hearing or Judgment

1. Parents will have joint legal custody of the minor children.
2. In exercising joint legal custody, the parents must confer in making decisions on the following matters:
 - a. ☐ Enrollment in or leaving a particular private or public school or day-care center
 - b. ☐ Participation in particular religious activities or institutions
 - c. ☐ Beginning or ending of psychiatric, psychological, or other mental health counseling or therapy
 - d. ☐ Selection of a doctor, dentist, or other health professional (except in emergency situations)
 - e. ☐ Participation in extracurricular activities
 - f. ☐ Out-of-country or out-of-state travel
 - g. ☐ Other (*specify*):
3. The consequence of not obtaining the consent of the other parent is:
 - ☐ Failure to cooperate in these matters could result in sole legal custody being awarded to one parent
 - ☐ Other (*specify*):
4. In all other matters, in exercising joint legal custody, the parents may act alone, as long as the action does not conflict with any orders concerning the physical custody of the children.
5. ☐ Each parent is ordered to provide the other parent with information concerning the minor children including, but not limited to, copies of report cards, school meeting notices, school schedules, class programs, requests for conferences, invitations to special events, results of standardized or diagnostic tests, samples of school work, and all communications from health care providers.
6. ☐ Other (*specify*):

PETITIONER: RESPONDENT: OTHER PARENT:	CASE NUMBER:
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ADDITIONAL PROVISIONS –PHYSICAL CUSTODY ATTACHMENT☐ to Petition or Application☐ to Findings and Order After Hearing or Judgment**1. ☐ NOTIFICATION OF PARENT'S CURRENT ADDRESS**

Each parent must notify the other parent of his or her current address and telephone number within ___ days of any change in his or her ☐ residence address ☐ mailing address, ☐ residence address ☐ telephone/message numbers at ☐ home and at ☐ work, ☐ the children's school and ☐ the location of any place the children are expected to spend four or more days. Neither parent may use such information for the purpose of harassing, annoying or disturbing the other's peace or invade the other's privacy.

2. ☐ NOTIFICATION OF PROPOSED MOVE OF CHILD

Each parent must notify the other parent ___ days prior to any planned change in residence of the child. The notification must state, to the extent known, the planned address of the child including the county and state of the new residence. The notification must be sent by certified mail, return receipt request.

3. ☐ ALCOHOL OR SUBSTANCE USE IN PRESENCE OF CHILD

Neither parent may abuse alcohol or be intoxicated, or use or possess illegal drugs, or allow others to abuse alcohol or be intoxicated, in the presence of the children.

4. ☐ SAFE TRANSPORTATION FOR CHILD

The children may be transported only in a properly licensed and insured vehicle by a licensed driver. The children must be in appropriate child seats or seat belts when being transported.

5. ☐ CHILDCARE

The children shall not be left alone without age appropriate supervision.

6. ☐ RIGHT OF FIRST OPTION OF CHILD CARE

In the event either parent requires child care for ___ hours or more while the children are in his or her custody, the other parent must be given first opportunity, with as much prior notice as possible, to care for the children before other arrangements are made. Unless specifically agreed or ordered by the court, this order does not include regular child care needed when a parent is working.

7. ☐ CHILDREN MAY LEAVE CALIFORNIA FOR VACATION

The children may be removed from the State of California during periods of vacation for periods not to exceed ___ days, provided the vacationing parent gives reasonable advance notice, and provides addresses, telephone number and travel itinerary to the other parent.

8. ☐ CANCELLED PARENTING TIME

- a. ☐ If the non-custodial parent fails to arrive at the appointed time, and fails to notify the custodial parent that he or she will be late, then the custodial parent need only wait for _____ minutes before considering the visitation cancelled.
- b. ☐ In the event a noncustodial parent is unable to exercise visitation on a given occasion, he or she must notify the custodial parent at the earliest possible opportunity.
- c. ☐ The custodial parent must give the noncustodial parent as much notice as possible if the children are ill and unable to participate in time with the other parent.

9. ☐ PHONE CONTACT BETWEEN PARENTS AND CHILDREN

- a. ☐ There will be phone contact between the children and parents as follows: (*specify*)
- b. ☐ The children may have telephone access to the parents ☐ and the parents may have telephone access to the children, at reasonable times, for reasonable durations, and without any third party listening in.
- c. ☐ The scheduled phone contact between parents and the children is: (*specify*):

PETITIONER: RESPONDENT: OTHER PARENT:	CASE NUMBER:
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10. ☐ **NO NEGATIVE COMMENTS**

Neither parent will make negative comments about the other parent, the other parent's past or present relationships, family or friends within hearing distance of the children.

11. ☐ **NO USE OF CHILDREN AS MESSENGERS**

The parents will communicate directly with each other in matters concerning the children and may not use the children as messengers between them.

12. ☐ **NO EXPOSURE TO CIGARETTE SMOKE**

The children will not be exposed to second-hand cigarette smoke while in the home or car of the other parent.

13. ☐ **NO INTERFERENCE WITH SCHEDULE OF OTHER PARENT WITHOUT THAT PARENT'S CONSENT**

Neither parent will schedule activities for the children during the other parent's scheduled parenting time without the other parent's prior agreement.

14. ☐ **FIREARMS**

The parents will communicate directly with each other in matters concerning the children and may not use the children as messengers between them.

15. ☐ **TERMS AND CONDITIONS OF ORDER MAY BE CHANGED**

The terms and conditions of this order may be added to or changed as the needs of the children and parents change. Such changes will be in writing, dated and signed by both parents; each shall retain a copy. If the parents want this to be a court order, it must be filed with the court in the form of a court document.

16. ☐ **OTHER (*specify*):**

PETITIONER: RESPONDENT: OTHER PARENT:	CASE NUMBER:
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☐ to Petition or Application ☐ to Findings and Order After Hearing or Judgment

The following Parenting Plan Table lists specific holiday parenting schedules. Specify parents' years, ODD or EVEN or BOTH, starting and ending days and times.

[illegible]

☐ Three day holidays not listed above will be spent with the parent who would normally have that weekend and the weekend is defined as _____ (time) _____ day to _____ (time) _____ day

☐ Other (Specify): _____

☐ Mother/Father may take a vacation with the children each year of up to _____ days/weeks _____ times per year. They must notify the other parent in writing of their vacation plans a minimum of 30 days in advance and provide the other parent with a basic itinerary to include dates of leaving and return, destinations, flight information and telephone numbers for emergency purposes.

☐ Other (specify): _____

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CHILD CUSTODY AND VISITATION ORDER ATTACHMENT

Attachment to ☐ Findings and Order After Hearing ☐ Judgment ☐ Other

JURISDICTION: This court has jurisdiction to make child custody orders in this case pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 of the California Family Code commencing with Section 3400).

NOTICE AND OPPORTUNITY TO BE HEARD: The responding party was afforded notice and an opportunity to be heard as provided by the laws of the State of California.

COUNTRY OF HABITUAL RESIDENCE: The country of habitual residence of the child or children in this case is:

☐ the United States ☐ Other (*specify*):

PENALTIES FOR VIOLATING THIS ORDER: If you violate this order you may be subject to civil or criminal penalties, or both.

1. ☐ **CUSTODY** Custody of the minor children of the parties is awarded as follows:

<u>Child's name</u>	<u>Child's birth date</u>	<u>Legal custody to (name)</u>	<u>Physical custody to (name)</u>
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2. ☐ **VISITATION**

- a. ☐ No visitation.
- b. ☐ Reasonable right of visitation to the party without physical custody. (Not appropriate in cases involving domestic violence.)
- c. ☐ As set forth in the attached custody and visitation agreement, recommendation, or schedule consisting of (*number*): _____ pages, dated: _____
- d. ☐ The parties are referred to court-affiliated mandatory mediation forthwith. The address and telephone number are (*specify*): _____
- e. ☐ Pending further order of the court, specific visitation as follows:

- (i) ☐ **WEEKENDS** The weekend starts on ☐ Friday ☐ Saturday

☐ Father ☐ Mother will have the children with him/her:

<input type="checkbox"/> First weekend of the month (<i>specify day(s) and time</i>):	from _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
	to _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
<input type="checkbox"/> Second weekend of the month (<i>specify day(s) and time</i>):	from _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
	to _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
<input type="checkbox"/> Third weekend of the month (<i>specify day(s) and time</i>):	from _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
	to _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
<input type="checkbox"/> Fourth weekend of the month (<i>specify day(s) and time</i>):	from _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
	to _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
<input type="checkbox"/> Fifth weekend of the month (<i>specify day(s) and time</i>):	from _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.
	to _____	at _____	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.

- (ii) ☐ **ALTERNATE WEEKENDS** (*specify starting date*): _____

☐ Father ☐ Mother will have the children with him/her (*specify day(s) and time*): _____ from _____
at _____ ☐ a.m. ☐ p.m. to _____ at _____ ☐ a.m. ☐ p.m.

- (iii) ☐ **MID-WEEK**

☐ Father ☐ Mother will have the children with him/her (*specify day(s) and time*): _____ from _____
at _____ ☐ a.m. ☐ p.m. to _____ at _____ ☐ a.m. ☐ p.m.

- (iv) ☐ **Other** (*specify day(s) and time(s) as well as any additional restrictions*): ☐ See Attachment 2e(iv).

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3. ☐ **SUPERVISED VISITATION** ☐ See attached form FL-341(A)
 until ☐ further order of the court ☐ other
☐ Father ☐ Mother will have supervised visitation with the minor children according to the schedule set forth in item 2 above. The visits must be supervised by (*name*):
 The supervisor's phone number is:
 Costs for supervision shall be paid as follows: Father: _____%, Mother: _____%
4. ☐ **TRANSPORTATION FOR VISITATION AND PLACE OF EXCHANGE**
 a. ☐ Transportation to the visits will be provided by ☐ Father ☐ Mother ☐ Other (*specify*):
 b. ☐ Transportation from the visits will be provided by ☐ Father ☐ Mother ☐ Other (*specify*):
 c. ☐ The exchange of the children will occur at (*specify location*):
 d. ☐ Other (*specify*):
5. ☐ **THE MINOR CHILDREN MUST NOT BE REMOVED BY** ☐ Father ☐ Mother
 a. ☐ from the State of California
 b. ☐ from the following counties:
 c. ☐ other (*specify*):
 without the written consent of the other parent or order of court, except as specified in this order.
6. ☐ **CHILD PREVENTION ABDUCTION ORDERS (see attached form FL-341(B))**
7. ☐ The children will spend holiday time as set forth in attached form FL-341(C)
8. ☐ The parents will follow the additional custody provisions as set forth in attached form FL-341(D)
9. ☐ The parents will share joint legal custody as set forth in attached form FL-341(E)
10. ☐ The parents will follow the orders to protect the children as set out in attached form FL-341(F)
11. ☐ Other (*specify*):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): TELEPHONE NO: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	TELEPHONE NO.: _____ <div style="text-align: center; font-size: 24pt; font-weight: bold;">DRAFT 5 03/13/03</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER:	
STIPULATION AND ORDER FOR CUSTODY AND/OR VISITATION OF CHILDREN <input type="checkbox"/> MODIFICATION	CASE NUMBER:

The parties signing this stipulation agree that:

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The parties were present when they signed the attached custody and visitation agreement.
3. The habitual residence of the children is the United States of America.
4. **Both parties acknowledge they were advised that any violation of this order may result in civil or criminal penalties, or both.**
5. a. The parties stipulate that the attached document, dated (*specify*): _____ and consisting of (*number*): _____ pages is their custody and visitation agreement and request that it be made an order of the court, or
 b. The parties stipulate that the attached forms
☐ FL-341A ☐ FL-341B ☐ FL-341C ☐ FL-341D ☐ FL-341E ☐ FL-341F
 constitute their agreement regarding custody and/or visitation of their children and request that they be made an order of the court.

Each party declares under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Date: _____	▶	_____
Date: _____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF OTHER (<i>specify</i>))
_____ (TYPE OR PRINT NAME)	▶	(SIGNATURE OF ATTORNEY FOR OTHER)

THE COURT FINDS:

FINDINGS AND ORDER

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The parties were present when they signed the attached custody and visitation agreement.
3. The habitual residence of the children is the United States of America.
4. Both parties have been advised that any violation of this order may result in civil or criminal penalties or both.

THE COURT ORDERS:

1. The agreement of the parties regarding custody and visitation a. ☐ as set forth in the attached document dated (*specify*): _____ and consisting of (*number*): _____ pages or b. ☐ set forth in the attached forms:

☐ FL-341A ☐ FL-341B ☐ FL-341C ☐ FL-341D ☐ FL-341E ☐ FL-341F

is adopted as the order of the court and fully incorporated by reference herein.

Date: _____

JUDICIAL OFFICER